

Exhibit 2

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 14

15 **UNITED STATES DISTRICT COURT**
 16 **NORTHERN DISTRICT OF CALIFORNIA**
 17 **SAN FRANCISCO DIVISION**
 18

19 DANIELLE A. SINGER, PROJECT
 THERAPY, LLC (d/b/a THERAPY
 20 THREADS), HOLLY DEAN, DZ
 RESERVE, and CAIN MAXWELL (d/b/a
 21 MAX MARTIALIS), individually and on
 behalf of all others similarly situated,
 22

Plaintiffs,

23 v.
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FACEBOOK, INC.,
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Defendant.
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CASE NO. 3:18-cv-04978-JD

**FACEBOOK, INC.'S RESPONSES AND
 OBJECTIONS TO PLAINTIFFS' THIRD
 SET OF INTERROGATORIES**

CONFIDENTIAL

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (the “Federal Rules”) and the Local Civil Rules (the “Local Rules”) of the United States District Court for the Northern District of California, Defendant Facebook Inc. (“Facebook”), by and through its undersigned counsel, hereby objects and responds to Plaintiffs’ Third Set of Interrogatories (the “Interrogatories,” and each an “Interrogatory”) as set forth below.

GENERAL OBJECTIONS AND OBJECTIONS TO INSTRUCTIONS AND
DEFINITIONS

The following general objections and objections to instructions and definitions apply to each of the Interrogatories and, unless otherwise stated, shall have the same force and effect as if set forth in full in response to each of the Interrogatories.

1. Facebook objects to Plaintiffs’ instructions, definitions, and each Interrogatory to the extent they purport to impose on Facebook any obligation that exceeds the requirements of the Federal Rules of Civil Procedure, the Local Rules of this Court, any applicable orders of this Court, or any other governing law.

2. Facebook objects to the Interrogatories to the extent that they are overly broad, unduly burdensome, and not proportional to the needs of the case insofar as the burden and expense of the proposed discovery outweighs its likely benefit.

3. Facebook objects to the extent the Interrogatories make incorrect and unsupported assumptions or draw legal conclusions, including in defining or describing requested information. Facebook objects to assumptions and legal conclusions to the extent assumed by any Interrogatory, and any response or objection by Facebook is without prejudice to this objection.

4. Facebook objects to the Interrogatories to the extent that they seek information that is subject to the attorney-client privilege, the work product doctrine, or any other applicable privilege or protection. Facebook does not intend to waive any applicable privilege or protection and will not disclose any privileged or protected information. Nothing contained in these responses is intended to be nor should be considered a waiver of any attorney-client privilege, work-product privilege or protection, or any other applicable privilege or doctrine. To the extent any Interrogatory may be construed as calling for disclosure of information, documents, and/or

1 things protected by such privileges or doctrines, a continuing objection to each and every such
2 interrogatory is hereby asserted.

3 5. Facebook objects to the Interrogatories to the extent they seek confidential
4 information, private information, or proprietary information, including trade secrets and
5 competitively sensitive business information where any purported marginal benefits of the
6 provision or production of the requested information are outweighed by the burden associated with
7 producing such highly sensitive information. To the extent any such information warrants
8 disclosure under the Federal Rules of Civil Procedure and the Local Rules of the Court, Facebook
9 will provide such information, subject to an appropriate confidentiality designation provided in the
10 parties' duly-ordered Protective Order (Dkt. Nos. 81 and 85) in this case.

11 6. Facebook objects to the definitions, instructions, and Interrogatories to the extent
12 they call for information that is not in Facebook's possession, custody, or control. Facebook
13 further objects to the extent the Interrogatories seek information that is publicly available or
14 otherwise available to Plaintiffs from another source that is more convenient, less burdensome,
15 and less expensive.

16 7. Facebook objects to Plaintiffs' definition of "Facebook" as vague, ambiguous, and
17 overly broad, insofar as it purports to include "subsidiaries," "affiliates," "accountants,"
18 "independent contractors," "vendors," and "all other persons or entities acting on its behalf or
19 under its direct or indirect control."

20 8. Facebook objects to each Interrogatory that is vague, ambiguous, and unclear,
21 including the use of terms that are not defined and/or not otherwise susceptible to any single
22 meaning. To the extent possible, Facebook has made reasonable interpretations of these
23 Interrogatories and terms.

24 9. Based on Federal Rule of Civil Procedure 33(d), Facebook objects to each
25 Interrogatory that seeks information that can be derived from documents that will be produced,
26 and where the burden to derive such information is substantially the same for Plaintiffs as it is for
27 Facebook.

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10. Facebook objects to the Interrogatories to the extent that they are compound and contain multiple subparts that should count separately toward the total number of permitted interrogatories, in accordance with Federal Rule of Civil Procedure 33(a)(1).

11. Facebook objects to the instruction regarding “the relevant time period” as overly broad, unduly burdensome, not proportional to the needs of the case, not reasonably calculated to lead to the discovery of admissible evidence, and not likely to lead to the discovery of relevant information. Subject to and without waiving the objections stated herein, Facebook will provide responses to Plaintiffs’ Interrogatories based on information created between May 15, 2014 and April 5, 2019.

12. Facebook’s response to these Interrogatories shall not be construed in any way as an admission that any definition provided by Plaintiffs is either factually correct or legally binding upon Facebook, or as a waiver of any of Facebook’s objections, including but not limited to objections regarding discoverability of documents or other evidence.

13. Facebook expressly incorporates the foregoing General Objections as though set forth fully in the responses below, and to the extent they are not raised in the response, Facebook does not waive those objections.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 5:

Provide a detailed explanation of each method Facebook has used to set the price for Facebook advertisements since August 15, 2014.

RESPONSE TO INTERROGATORY NO. 5:

Facebook incorporates its General Objections and Objections to Instructions and Definitions as if fully set forth herein. Facebook objects to this Interrogatory because it seeks confidential information, private information, and proprietary information, including trade secrets and competitively sensitive business information, that is not necessary to the prosecution or defense of this action and is not likely to lead to the discoverability of admissible evidence. Facebook objects to this Interrogatory as vague and ambiguous as to the term “method.” Facebook objects to this interrogatory to the extent it seeks information that is already in the possession,

1 custody, or control of Plaintiffs. Facebook objects to this Interrogatory as unduly burdensome
2 because it has no end date; Facebook's response will be limited to information created on or before
3 April 5, 2019. Facebook also objects to this Interrogatory as unduly burdensome because it
4 requires Facebook to compile, examine, audit, abstract, and summarize business records (including
5 electronically stored information) that will be produced or made available for inspection in this
6 case. The burden of deriving or ascertaining that answer from a review of those business records
7 would be substantially the same for either Plaintiffs or Facebook. Discovery is ongoing in this
8 case, and Facebook's future rolling document productions may contain business records from
9 which an answer to this Interrogatory could be derived. Thus, Facebook will supplement this
10 Response to identify for Plaintiffs the Bates numbers of those additional business records, a review
11 of which would provide Plaintiffs with responsive information. Facebook objects to the extent
12 this Interrogatory seeks information that is protected by the attorney-client privilege, attorney work
13 product doctrine, or other privileges or protections. Facebook objects to this interrogatory to the
14 extent it prematurely calls for expert opinion in advance of the disclosure required by Federal Rule
15 of Civil Procedure 26(a)(2) and the Court's scheduling order (Dkt. No. 119).

16 Subject to and without waiving any of Facebook's General or Specific Objections,
17 Facebook responds as follows:

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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20 **INTERROGATORY NO. 6:**

21 Please identify all terms You contend were part of a contract that covered Facebook
22 advertisements that were served since August 15, 2014, including:

- 23 a. For each advertisement, the terms you contend applied to the advertisement;
24 b. The Document(s) containing those; and
25 c. The time period during which the terms were in effect.

26 **RESPONSE TO INTERROGATORY NO. 6:**

27 Facebook incorporates its General Objections and Objections to Instructions and
28 Definitions as if fully set forth herein. Facebook objects to this Interrogatory because it seeks

1 confidential information, private information, and proprietary information, including trade secrets
2 and competitively sensitive business information, that is not necessary to the prosecution or
3 defense of this action and is not likely to lead to the discoverability of admissible evidence.
4 Facebook objects to this Interrogatory to the extent it calls for the disclosure of information subject
5 to third-party confidentiality agreements and to the extent it seeks confidential, proprietary, or
6 trade secret information of third parties. Facebook objects to this request to the extent that it
7 purports to require Facebook to draw any legal conclusion to make its response. Facebook objects
8 to this Interrogatory as overly broad and unduly burdensome because it has no end date;
9 Facebook's response will be limited to information created on or before April 5, 2019. Facebook
10 also objects to this Interrogatory as unduly burdensome because it seeks disclosure of information
11 relating to Plaintiffs' contract claims, which the Court has already dismissed. Facebook further
12 objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs
13 of the case to the extent it seeks discovery relating to advertisers who are outside of the United
14 States.

15 Subject to and without waiving any of Facebook's General or Specific Objections,
16 Facebook responds as follows:

17 Advertisers who purchased advertisements on Facebook from August 15, 2014 through
18 April 5, 2019 and utilized Facebook's self-serve advertising interface made their purchases under
19 (a) the then-applicable version of Facebook's Terms or Service or Statement of Rights and
20 Responsibilities, which expressly incorporated a set of additional contractual terms including
21 Facebook's Self-Serve Ad Terms, Advertising Policies, Advertising Guidelines, Community
22 Payment Terms, and Commercial Terms, or (b) if the advertiser had an applicable individually
23 negotiated agreement, the individually negotiated agreement.

24 The following contractual terms have been produced at the following Bates ranges:

- 25 • Terms of Service (April 2018 through April 2019): FB-SINGER-00000402 to FB-
26 SINGER-00000407;
- 27 • Statement of Rights and Responsibilities (December 2012 through March 2015):
28 FB-SINGER-00000277 to FB-SINGER-00000298;

- Self-Serve Ad Terms (August 2014 through April 2019): FB-SINGER-00000400 to FB-SINGER-00000401; FB-SINGER-00000431 to FB-SINGER-00000432;
- Advertising Guidelines (August 2014 through April 2015): FB-SINGER-00000015 to FB-SINGER-00000062;
- Advertising Policies (April 2015 through April 2019): FB-SINGER-00000068 to FB-SINGER-00000123;
- Community Payment Terms (August 2014 through April 2019): FB-SINGER-00000124 to FB-SINGER-00000225;
- Commercial Terms (from May 2018 to April 2019): Production forthcoming.

INTERROGATORY NO. 7:

Please state the marginal cost to Facebook to serve an impression of an advertisement to a Facebook user.

RESPONSE TO INTERROGATORY NO. 7:

Facebook incorporates its General Objections and Objections to Instructions and Definitions as if fully set forth herein. Facebook objects to this Interrogatory because it seeks information that is not relevant to any party's claims or defenses, and is overly broad, unduly burdensome, and not proportional to the needs of the case, including to the extent it seeks financial information that is not maintained by Facebook in the ordinary course of business and prematurely calls for expert opinion in advance of the disclosure required by Federal Rule of Civil Procedure 26(a)(2). Facebook objects to this Interrogatory because it is vague and ambiguous as to the phrase "marginal cost to Facebook to serve an impression of an advertisement to a Facebook user." Facebook objects to this Interrogatory because it seeks confidential information, private information, and proprietary information, including trade secrets and competitively sensitive business information, that is not necessary to the prosecution or defense of this action and is not likely to lead to the discoverability of admissible evidence.

1 Dated: October 23, 2019

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PROOF OF SERVICE

I am employed in the County of San Francisco, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 505 Montgomery St., Suite 2000, San Francisco, CA 94111.

On **October 23, 2019** I served the following document described as:

FACEBOOK, INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFFS' THIRD SET OF INTERROGATORIES

by serving a true copy of the above-described document in the following manner:

BY ELECTRONIC MAIL

The above-described document was transmitted via electronic mail to all attorneys of record.

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I declare that I am employed in the office of a member of the Bar of, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 23, 2019**, at San Francisco, California.

/s/ Nicole C. Valco
Nicole C. Valco